



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII
901 NORTH 5TH STREET
KANSAS CITY, KANSAS 66101

OCT 25 2000

Colonel Mark Tillotson
District Engineer
Corps of Engineers
215 North 17th Street
Omaha, NE 68102-4978

Dear Colonel Tillotson:

RE Review of the Western Sarpy/Clear Creek Flood Reduction Study Including
Environmental Restoration Component Draft Feasibility Report and Environmental
Impact Statement

The Environmental Protection Agency has reviewed the Western Sarpy/Clear Creek Flood Reduction Study and Draft Environmental Impact Statement (DEIS). Our review is provided pursuant to the National Environmental Policy Act (NEPA) 42 U.S.C. 4231, Council on Environmental Quality (CEQ) regulations 40 C.F.R. Parts 1500-1508, and Section 309 of the Clean Air Act (CAA). The DEIS was assigned the Council on Environmental Quality (CEQ) number 000312.

The DEIS analyzes several structural alternatives for flood damage reduction protection along the lower reaches of the Platte River in Western Sarpy County, Nebraska. The structural flood control methods which are evaluated may have significant adverse impacts to natural resources in this floodplain valley. Based on our review, and considering the level of detail that prompted each of our detailed comments (enclosed), we have assigned the DEIS a rating of EO-2 (Environmental Objections - Inadequate Information). A copy of EPA's rating system criteria is provided as an attachment to these comments.

EPA strongly encourages the Corps of Engineers to reevaluate the range of non-structural alternatives that are available to provide flood damage reduction which are in keeping with the intent of E.O. 11988 (Floodplain Management). I urge you to engage this Region's NEPA staff to discuss our objections and detailed comments for this DEIS.

Please send one copy of the Final EIS to this office at the same time it is officially filed with our Washington, D.C. office. If you have any questions, please contact Royce B. Kemp at (913)551-7551.

Sincerely,

A handwritten signature in black ink, appearing to read "Dennis Grams", written in a cursive style.

Dennis Grams, P.E.
Regional Administrator

Enclosures - 2

cc: Nelson Carpenter, USACE, Omaha District
Steve Anshutz, USFWS
Mike Linder, NDEQ

**EPA's Comments on the Western Sarpy/Clear Creek Flood Reduction Study Including
Environmental Restoration Component, Draft Feasibility Report and Environmental
Impact Statement**

General Comments:

1. The Need portion, of the Purpose and Need in the DEIS, is deficient and unclear, providing no clear justification to increase the level of flood damage protection throughout the project area. From reviewing the DEIS, EPA proposes that a more precise need would be to "bring the existing levees up to Corps' construction standards."
2. The DEIS does not rigorously explore and objectively evaluate all reasonable alternatives, nor does it sufficiently analyze those alternatives that are not within the jurisdiction of the Corps (40 CFR 1502.14). For example, it appears that buying out structures in the floodplain, raising building heights above the 100-year flood level, and other non-structural alternatives, are not given equal consideration compared to the marginal benefits of the preferred alternative presented in this DEIS and the potential adverse environmental impacts if a structural alternative is implemented in the project area.
3. The document does not follow the NEPA format as outlined in 40 CFR 1502.10, furthermore, the Corps does not provide a compelling reason why the format is not followed. The Purpose and Need, and Index sections are also absent from the DEIS.
4. Transportation and Recreation issues and benefits are missing from the Environmental Consequences Section of the Environmental Restoration Plan.
5. The lack of graphical illustrations makes visualization of the proposed project difficult. The black and white maps that are included are congested and may be too difficult for a non-technical person to interpret. EPA recommends including easy to view and interpret, colorful maps and illustrations of the project and study-area environment, as represented in various portions of the DEIS.
6. The Report frequently makes reference to "seepage berms." We were unable to find in the Report any definition/purpose or drawing including proximity to existing levees for such structures. It also was not made clear what the effect, if any, such structures would have on wetlands by the direct placement of fill materials and the interception of runoff. We recommend that this information be included in the Report.
7. This project does not appear to comply with the basic, federal objective of the Principles and Guidelines. That is, this project is not consistent with protecting the Nation's environment, pursuant to national environmental statutes, applicable executive orders, and other Federal planning requirements. For example, throughout the document the Corps reports that the proposed build-alternatives will have adverse impacts which are likely to impact the Platte River morphology, floodplain uses and values, and the following endangered species: the Interior Least Tern, the Piping Plover, and the Pallid Sturgeon. These impacts will reduce habitat for

endangered species and inflict undesirable changes to the physical characteristics of the Platte River. The DEIS belies the federal objective for this project given the uncertain level of flood damage protection compared to the irreparable damage that may be caused to the Nation's environment and resources in the project area.

Additionally, the proposal and consideration of the alternatives presented in this project is perplexing because the project sponsor believes that these structural measures will prevent or reduce flood damage caused by floods induced by ice jams which the Corps has repeatedly indicated that it does not support in the utilization, or purpose, of the levee build-alternatives.

8. EPA supports the implementation of the Environmental Restoration Project, incorporating those modifications recommended by the US Fish and Wildlife Service (USFWS).

9. EPA recommends the inclusion of the project sponsor's Floodplain Management Plan (FPMP) as required by Section 202(c) of WRDA 1996, in the Appendix of the DEIS.

10. EPA is concerned that the structural alternatives will result in continued restriction of the Platte River channel and separation of the historic floodplain from the River. For example, addition of the riverward levee at Beacon View alone would reduce the channel width (i.e., proposed riverward levee location to the proposed Clear Creek levee extension) by 1/4 mile. Such continued improvements to floodplain levees come at an environmental cost to the floodplain and its natural resources including such costs (i.e, degradation and loss) associated with the secondary impacts of floodplain development once levee improvements are made. Further, we believe that other reasonable and prudent alternatives that have not yet been addressed in the Report may exist for meeting the basic project purpose. For example, retaining the landward levee at Beacon View plus buying out 13 residences alone or in combination with construction of the trailing Clear Creek levee and "buying out" the Camp Ashland structures all of which would prevent constriction of the River channel and retention of historical floodplain area.

Detailed DEIS Comments:

1. Table of Contents: The document needs a List of Figures or Plates for easier access to readers.

2. Summary, Flood Reduction, page S-1. The Report indicates that the "proposed project is to provide flood reduction along the Platte River" In fact, it would more accurately be stated that the basic project purpose is to provide a reduction in flood damages. This restating of the basic project purpose more accurately allows for the inclusion of the proposed alternative, Implement Floodplain Buyout. Such an alternative, which incidentally is presented not as a separate alternative (i.e., as the narrative on page 39 might suggest) rather as a subset of the "Rebuild Clear Creek Levee" alternative, alone could not reduce flooding but only the damages associated with flooding.

3. Summary, Flood Reduction Plans Considered in Detail, page S-2. A conclusion was advanced that "Other alternative plans lacked economic feasibility or would be ineffective in

reducing overall flood damages.” Based on our review of the document, we believe use of the phrase “overall flood damages” is unclear and potentially misleading. We recommend that the Corps replace the phrase with “flood damages associated with larger storm events.”

4. Summary, Environmental Restoration Plan, page S-3. Change “two endangered birds” to “two endangered bird species”.

5. Summary, Unresolved Issues, page S-4. This section states that levee improvements that will cause adverse effects to endangered species and this remains an unresolved issue, and that the US Fish and Wildlife Service has yet to render a Final Biological Opinion. Because this is a very sensitive ecosystem and more information must be acquired to fully assess these adverse effects, EPA recommends the Corps explore significant changes to the proposed project in order to avoid or minimize adverse impacts to endangered species.

6. Summary, Relationship to Environmental Requirements, page S-4. The DEIS fails to identify or address Environmental Justice issues as required by Executive Order 12898 in this section and in the main body of the document.

7. Summary, page S-5. The top of page begins with an incomplete sentence.

8. Summary, Floodplain Management, page S-5. EPA is concerned about the conclusion that the failure of the “practicability” test is based on the lack of a non-Federal sponsor. Our review of EO 11988 indicates that it was issued based on the premise that the Federal government should avoid direct or indirect support of floodplain development wherever there is a practicable alternative. Further review of EO 11988 indicates that there are no criteria for what constitutes a “practicable” alternative. If we turn to the Clean Water Act Section 404(b)(1) guidelines (40 CFR, part 230.10 (a)(2)) for criteria we find that “an alternative is practicable if it is available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes. Increased costs of alternatives or an unwillingness of a Section 404 permit applicant to pursue practicable alternatives do not render such alternatives impracticable. We believe that the Corps should more fully address in the Report in advance of the 404 permit (b)(1) evaluation how the alternatives have failed the “practicability” test. We do not believe that failure of the test should be based on the sponsor’s willingness or lack of willingness.

9. Main Report, page 12. The Report indicates that “most of the past instances of levee failure in the study reach have occurred during ice-affected floods.” Does the Report consider the effects on ice-affected floods with the proposed structural alternatives particularly since a few will result in significant restrictions on the Platte River channel area upgradient of the BNSF bridge? Such restrictions would not appear to ease the problem of ice-affected flood damages to existing infrastructure.

10. Main Report, page 17. Reference is made to ‘portions’ of the floodplain having a long history of suffering severe land damages, particularly from ice-affected floods. EPA recommends specifying where these ‘portions’ are and identifying them on a map.

11. Main Report, pages 17-18. EPA recommends a consistent use of presenting information in Table 3 and 4, i.e., similar column descriptions and dollar figure representations.
12. Main Report, page 18. EPA recommends identifying the 'numerous wetlands' that have been destroyed or altered as described in this section and identifying these areas on a map, and comparing those areas with wetlands that may be potentially impacted by this project.
13. Main Report, page 30. While this section identifies the overall population and economy of the study area, EPA recommends further describing the population and economy of the immediate project area. For example, the population of both counties in the study area is approximately 140,000. To present a clear understanding of the impacts to the human environment, it would be helpful to compare this figure with that of the population that would receive the benefits within the project boundary.
14. Main Report, page 34. The third paragraph on this page states that the levees in the project area would continue to break. EPA recommends providing a detailed explanation of why the Corps believes that the levees will continue to break in the future if there is no federal project. EPA also recommends identifying new measures and project alternatives to address this re-defined, project need.
15. Main Report, page 39. Camp Ashland to BNSF, last sentence: To clarify that adverse impacts to the wetland would be avoided, we recommend adding the following after the sentence: "... entire length to avoid interrupting overbank flows to the wetland."
16. Main Report, page 39-40. EPA recommends further exploration of the Floodplain Buyout and Flood-proofing Measures Alternative. Because of recent negotiations between the Corps and FEMA, it may now be economically feasible to raise structures that were previously evaluated and anticipated as requiring purchase.
17. Main Report, page 42. The Report indicates that the economic analysis (i.e., as summarized in Table 6, page 43) excludes purchase costs for flooding easements and riverside cabins as such analysis applies to the National Economic Development (NED). First, this conflicts with information on page 49, paragraph 3 which indicates that the "NED plan would also include the purchase of flooding easements and ...(the) cabins." Secondly, the none of the alternatives summarized on pages 41-42 indicates which involves the purchase of floodplain easements. Why is this information omitted? Finally, since the purchases of the easements and cabins would likely represent significant expenses and, therefore, could greatly affect the benefit-cost analyses, it is unclear why such expenses would be omitted? Are these expenses that the Federal and non-federal sponsors would not have to bear?
18. Main Report, page 43. Clarification is needed why the figures represented in Table 6 do not match those in Table 13 and Table 14 found in Appendix C. This table should also be updated to reflect the increased net benefits of the non-structural plan to include reduced costs associated with raising cabins in the project area versus buyout. The Corps should endeavor to develop, quantify, incorporate, and analyze the "considerable" environmental benefits which exist in the

non-structural plan as identified in Appendix R, Compliance with EO 11988, Floodplain Management, page 7.

19. Main Report, page 49. The Environmental Restoration Plan section does not appear to identify any recreational benefits developed as result of this project. Those benefits, if they exist, should be analyzed in the Final EIS.

20. Main Report, page 60. This section states that the sponsor preferred alternative, Plan 5, “*probably* would reduce the frequency of overland flooding landward of the levees.” EPA is concerned that such language found here and elsewhere in the DEIS reflects questionable structural project alternatives, an overall inadequate analysis of the project, and belies the projects’ ability to provide the stated project objectives.

21. Main Report, page 67. The Corps identifies that cumulative effects of levees on the Lower Platte River have significant adverse effects to the environment and that the impacted fish floodplain habitat has never been studied. EPA recommends the Corps undertake a cumulative impacts analysis of the Lower Platte River to address the impacts that this project and others like it will have on this sensitive ecosystem.

22. Main Report, page 71. EPA recommends the addition of a table comparing the Floodplain Terrestrial Habitat Impacts shown in Table 8 to the other project alternatives.

23. Main Report, page 111, Conclusions. EPA recommends reiterating in the Conclusions section that the project is not intended to reduce flooding damages from ice jam conditions, which is the primary reason given in the DEIS for flood damages in the project area. In light of this fact, EPA disagrees with the statement in this section which states that the levee system plans proposed will meet the needs of the impacted area. Therefore, EPA recommends the Corps pursue the non-structural plan, if there is to be a federally sponsored and financed project.

24. Main Report, Plate 5: The reader is directed to this plate for the best view of the alternatives as described on page 41-42. We recommend improving the “viewability” of the alternatives with the following modifications:

- a. Label the community of Wann.
- b. Label the “left” and “right” bank of the Platte River as frequently referenced in the text.
- c. Label the trailing and the extension portions of the Clear Creek levee.
- d. Improve the label of “Beacon View.”
- e. How do the Alignments A, B, D, and F on the Plate correspond to the alternatives identified in the narrative portion of the Report. We were unable to locate the lettered alignments in the narrative.
- f. Label the location of the Thomas Lakes Development.

Summary of EPA Rating Definitions

EPA's rating system was developed as a means to summarize EPA's level of concern with a proposed action. The ratings are a combination of alphabetical categories that signify EPA's evaluation of the environmental impacts of the proposal and numerical categories that signify an evaluation of the adequacy of the EIS.

Environmental Impact of the Action

"LO" (Lack of Objections)

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

"EC" (Environmental Concerns)

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

"EO" (Environmental Objections)

The EPA review has identified significant environmental impacts that must be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

"EU" (Environmentally Unsatisfactory)

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the CEQ.

Summary of EPA Rating Definitions *(continued)*

Adequacy of the Impact Statement

"Category 1" (Adequate)

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

"Category 2" (Insufficient Information)

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

"Category 3" (Inadequate)

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.